

NICHOLAS J. SANTORO (NBN 532)
JASON D. SMITH (NBN 9691)
TYLER B. THOMAS (NBN 16637)
SPENCER FANE
300 South Fourth Street, Suite 1600
Las Vegas, Nevada 89101
Tel.: (702) 408-3400 / Fax: (702) 938-8648
Email: nsantoro@spencerfane.com
jdsmith@spencerfane.com
tbthomas@spencerfane.com

ZIWEI SONG (*pro hac vice*)
COVINGTON & BURLING LLP
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, CA 94105-2533
Tel.: (415) 591-6000
Email: ksong@cov.com

PETER SWANSON (*pro hac vice*)
GARY RUBMAN (*pro hac vice*)
SIMEON BOTWINICK (*pro hac vice*)
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001
Tel.: (202) 662-6000
Email: pswanson@cov.com
grubman@cov.com
sbotwinick@cov.com

*Attorneys for Plaintiffs Aristocrat
Technologies, Inc. and Aristocrat Technologies
Australia Pty Ltd.*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ARISTOCRAT TECHNOLOGIES, INC. and
ARISTOCRAT TECHNOLOGIES
AUSTRALIA PTY LTD.,

Plaintiffs/Counterclaim-
Defendants,

vs.

LIGHT & WONDER, INC., LNW GAMING,
INC., and SCIPLAY CORPORATION,

Defendants/Counterclaim-
Plaintiffs.

Case No.: 2:24-cv-00382-GMN-MDC

**FIRST AMENDED STIPULATED
DISCOVERY PLAN AND SCHEDULING
ORDER**

**(SPECIAL SCHEDULING REVIEW
REQUESTED)**

1 Plaintiffs Aristocrat Technologies, Inc. and Aristocrat Technologies Australia Pty Ltd.
2 (“Aristocrat”) and Defendants Light & Wonder, Inc., LNW Gaming, Inc., and SciPlay
3 Corporation (“L&W”), by and through their respective undersigned counsel, hereby stipulate and
4 agree, subject to the Court’s approval, to the following first amended discovery plan and
5 scheduling order in this matter pursuant to Fed. R. Civ. P. 26(f) and LR 26-1.

6 **A. Fed. R. Civ. P. 26(f) Conference:** On April 19, 2024, the parties held a
7 conference to discuss issues required by Fed. R. Civ. P. 26(f) and LR 26-1. Peter Swanson and
8 Simeon Botwinick of the law firm Covington & Burling and Jason Smith of the law firm Holley
9 Driggs (now Spencer Fane) appeared for Aristocrat. Harold Gordon, Randall Kay, and Anna
10 Raimer of the law firm Jones Day and Philip Erwin of the law firm Campbell & Williams
11 appeared for L&W. The parties also had email exchanges thereafter seeking to reach agreement
12 on the various issues addressed in the parties’ discovery plan and scheduling order filed on May
13 3, 2024. The parties have had additional discussions in connection with the preparation of this
14 first amended discovery plan and scheduling order.

15 **B. The Parties’ Discovery Plans**

16 The parties previously filed a stipulated discovery plan and scheduling order on May 3,
17 2024. ECF No. 44. On May 21, the Court denied that stipulated discovery plan and scheduling
18 order and, on L&W’s motion, stayed discovery pending resolution of L&W’s then-pending
19 motion to dismiss. ECF No. 51 at 8. On June 24, the Court resolved L&W’s motion to dismiss,
20 lifted the discovery stay, and ordered the parties to agree on a briefing schedule for Aristocrat’s
21 then-pending preliminary injunction motion. ECF No. 65 at 16–17.

22 Aristocrat filed an amended complaint on July 15, 2024. ECF No. 72. L&W filed a
23 partial motion to dismiss on August 8, ECF No. 85, and an answer and counterclaims on
24 August 12, ECF No. 87. Aristocrat filed an answer to L&W’s counterclaims on September 3.
25 ECF No. 104. The Court granted Aristocrat’s motion for preliminary injunction on
26 September 20, ECF No. 125, and L&W filed a notice of appeal on September 25, ECF No. 129.

The parties agree and propose, subject to the Court's approval, that discovery should proceed apace according to the following schedule:

Deadline	Proposed Date
Deadline for substantial completion of document productions ¹	<u>February 20, 2025</u> (approximately four (4) months before fact discovery deadline)
Deadline for motions to amend pleadings or add parties	<u>March 20, 2025</u> (four (4) weeks after deadline to substantially complete document productions)
Close of fact discovery	<u>June 30, 2025</u> (approximately fourteen (14) months from date of the LR 26(f) conference)
Deadline for disclosures concerning burden of proof experts	<u>August 1, 2025</u> (approximately two (2) months before expert discovery deadline)
Deadline for disclosures of rebuttal experts	<u>September 2, 2025</u> (approximate one (1) month before expert discovery deadline)
Close of expert discovery	<u>September 30, 2025</u> (approximately seventeen (17) months from date of LR 26(f) conference)
Deadline for filing dispositive motions	<u>October 31, 2025</u> (approximately one (1) month after the expert discovery deadline)
Deadline for filing joint pretrial order (which shall include the disclosures required pursuant to Fed. R. Civ. P. 26(a)(3), and any objections thereto) ²	<u>November 24, 2025</u> (approximately one (1) month after the deadline for filing dispositive motions)

1. **Joint Statement Regarding Longer Discovery Period (LR 26-1(b)):** The parties request a longer discovery period than set forth in LR 26-1(b)(1) due to the likely scope and volume of discovery and certain contested discovery issues that may require discovery motion practice.

C. Information Pursuant to Fed. R. Civ. P. 26(f)

1. **Initial Disclosures:** The parties previously exchanged initial disclosures on May 3, 2024. L&W served first supplemental disclosures on July 26.

2. **Subjects of Discovery:** The parties agree that discovery should extend to the full extent allowed by the Federal Rules of Civil Procedure and that discovery should not be limited

¹ The parties agree to work diligently to collect and produce documents on a rolling basis before this deadline (*i.e.*, they will not delay production until the deadline).

² If dispositive motions are filed, the deadline for filing the joint pretrial order shall be suspended until thirty (30) days after decision on the dispositive motions or until further order of the Court.

1 to any particular issue (without prejudice to a party's right to object to discovery or seek a
2 protective order).

3 **3. Phasing and Timing of Discovery:** The parties agree that expert discovery
4 should close after the close of fact discovery.

5 **4. Issues Regarding Disclosure of Electronically Stored Information:** The parties
6 do not anticipate any unique issues concerning discovery of electronically stored information.

7 **5. Issues About Claims of Privilege/Protection of Trial Preparation Materials:**
8 The parties agree that they are not required to identify on a privilege log any privileged
9 documents that (a) were created on or after December 23, 2023, the filing of the application in
10 *Aristocrat Techs. Australia Pty Ltd. v. Light & Wonder, Inc. et al.* (2023) No. NSD1576 (Fed. Ct.
11 Austl.) (the "Australian Proceeding"), or (b) consist of work product of or communications
12 involving counsel of record in this action or the Australian Proceeding. The parties will negotiate
13 a mutually agreeable time for the exchange of privilege logs.

14 **6. Changes Made in Limitations on Discovery:** The parties have discussed and
15 agreed on the following modifications to limitations on discovery.

16 **i. Fact Depositions:**

17 1. The parties agree that the number of depositions allowed pursuant
18 to this discovery plan and scheduling order includes third-party depositions but
19 not experts, provided that a deposition pursuant to Rule 30(b)(6) counts as a
20 single deposition regardless of the number of witnesses designated to provide
21 testimony. However, if any designated Rule 30(b)(6) witnesses are also deposed
22 in their personal capacity under Rule 30(b)(1), then each of the personal
23 depositions will count separately against the deposition limit. The parties may
24 take additional depositions by stipulation or with leave of Court.

25 2. Aristocrat's Position

26 Aristocrat proposes that each side be allowed to take up to eighteen (18)
27 fact depositions without consent of the parties or leave of Court. This is a
28

1 complex case with (a) five claims, which allege trade secret
2 misappropriation, copyright infringement, trade dress infringement, and
3 deceptive trade practices relating to L&W's company-wide efforts to copy
4 Aristocrat's highly successful Dragon Link game, (b) three counterclaims
5 asserted by L&W, (c) multiple L&W games, from different game studios,
6 that have copied, incorporated, or used Aristocrat's intellectual property,
7 and (d) numerous current and former L&W employees, including game
8 designers, executives, and managers, who appear to have been involved in
9 the development and commercialization of the games at issue.

10
11 Even L&W appears to agree that the default ten-deposition limit set by
12 Rule 30 will not be sufficient. For example, there are eleven L&W
13 witnesses in L&W's initial disclosures alone, nine of whom submitted
14 declarations in opposition to Aristocrat's preliminary injunction motion.
15 Aristocrat's initial disclosures identify an additional L&W witness
16 (Siabhon Lane). ECF No. 106-4. Aristocrat also intends to take a Rule
17 30(b)(6) deposition of L&W, as well as multiple depositions of other
18 witnesses who were not included in the parties' initial disclosures but have
19 been identified through discovery—including, for example, L&W's CEO
20 Matt Wilson, L&W personnel who worked on the Jewel of the Dragon
21 game, and L&W personnel who received Aristocrat's trade secrets and
22 confidential information.³

23
24 Aristocrat expects that further discovery, as well as the accountings that
25 L&W is required to provide pursuant to the Court's preliminary injunction

26
27 ³ Discovery has already revealed that the dissemination of Aristocrat's trade secrets within L&W
28 extended beyond Star Studio (e.g., as seen in emails between Emma Charles and Hong Wei).

1 order, ECF No. 125 at 20–21, will reveal the need for additional
2 depositions.⁴ Under these circumstances, Aristocrat respectfully submits
3 that at least eighteen (18) depositions per side will be necessary to ensure
4 that the parties can fully and fairly develop their claims and defenses.

5 3. L&W’s Position

6 LNW contends that the default number of depositions under the Federal
7 Rules is sufficient at this juncture. First, Aristocrat’s allegations put at
8 issue the conduct of a few individuals of an game development studio
9 (Star Studio) in Australia; not the broader LNW entity and its employees.
10 Thus, few individuals are truly material to the dispute. Second, in the
11 event Aristocrat determines during the discovery process that certain
12 individuals need to be deposed beyond the 10 allotted slots, Aristocrat can
13 raise the issue at that time with specifics, rather than generalizations.

14
15 Aristocrat’s justification for nearly double the default number of
16 depositions—18—is unavailing. First, Aristocrat argues that it must have
17 enough depositions to depose *all* 11 individuals LNW identified in its
18 initial disclosures, in addition to every individual who has submitted a
19 declaration in the case and unidentified employees. But parties rarely
20 depose every such person, particularly since initial disclosures are
21 intended to be over-inclusive. And justifying an expansive number of
22 depositions on that basis would only punish LNW for being forthright.

23
24
25 ⁴ Despite the Court’s order enjoining the “commercialization of Dragon Train,” as well as any
26 “game development efforts that would involve the use or disclosure of Plaintiffs’ Trade Secrets,”
27 ECF No. 125 at 20, L&W announced on October 3 that it is “working actively” to develop a new
28 version of Dragon Train, which L&W refers to as “Dragon Train 2.0.” See
<https://d18rn0p25nwr6d.cloudfront.net/CIK-0000750004/8e60ac80-6bb9-4dfa-9300-bae0981bd1f.pdf>. L&W has agreed to provide discovery on its continued development of

LNW attempted to resolve the dispute by offering Aristocrat 15 depositions, which LNW believes is still an excessive number of depositions. Aristocrat declined to compromise on the number of depositions it seeks.

4. The duration of depositions will be governed by the Federal Rules of Civil Procedure, in particular Rule 30(d)(1), except for any Rule 30(b)(6) depositions of a party. Aristocrat's position is that the parties should agree to meet and confer in good faith regarding the duration of Rule 30(b)(6) depositions of a party. L&W's position is that the duration of the Rule 30(b)(6) depositions should be as set forth in the Federal Rules of Civil Procedure.

5. The parties will attempt to schedule the Rule 30(b)(6) testimony sessions at the convenience of the witnesses. The parties agree to provide reasonable notice to each other in advance of a Rule 30(b)(6) deposition of both the deponent(s) and the topics that the deponent will address.

6. The parties agree that, as to the deponent designated by the responding party, if the noticing party desires an individual deposition of that deponent, both the individual deposition and the 30(b)(6) deposition will be taken in a single continuous deposition, absent good cause for holding depositions separately.

7. The parties agree to negotiate in good faith to identify a mutually agreeable location for depositions.

ii. Requests for Admission: Each side will be limited to fifty (50) requests for admission, exclusive of requests to establish the admissibility of documents. As part of their pre-trial conference, however, the parties agree to work in good faith toward a

Dragon Train 2.0, though it has yet to do so. Aristocrat expects that there will be additional depositions related to this issue.

1 suitable stipulation regarding the authenticity and admissibility of intended trial exhibits.
2 No other modifications to the default discovery limitations are needed at this time.

3 **iii. Electronic Copies and Service:** Pursuant to Rule 5(b)(2)(E), the parties
4 consent to service by electronic means and service shall be “complete upon transmission,
5 but is not effective if the serving party learns that it did not reach the person to be
6 served.” Service of all documents filed with the Court shall be made through the Court’s
7 ECF system.

8 Electronic service on Aristocrat will be made to at least the following:

9 nsantoro@spencerfane.com

10 jdsmith@spencerfane.com

11 mvallette@spencerfane.com

12 pswanson@cov.com

13 grubman@cov.com

14 sbotwinick@cov.com

15 ksong@cov.com

16 Aristocrat-LW-Cov@cov.com

17 Electronic service on L&W will be made to at least the following:

18 pre@cwlawlv.com

19 hkgordon@jonesday.com

20 rekay@jonesday.com

21 aeraimer@jonesday.com

22 lnw382@jonesday.com

23 nmanne@SusmanGodfrey.com

24 jgrinstein@susmangodfrey.com

25 rmagni@susmangodfrey.com

26 **D. Other Orders:** The parties previously submitted a stipulated protective order to
27 govern the exchange of confidential documents and information, ECF No. 47, which the Court
28

1 entered, ECF No. 50.

2 **E. Settlement:** In accordance with Fed. R. Civ. P. 26(f) and LR 26-1(b)(7), the
3 parties have discussed the possibility of using alternative dispute-resolution processes including
4 mediation and arbitration but have not reached any agreement at this time.

5 **F. Alternative Forms of Case Disposition:** The parties have considered consenting
6 to trial by magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73, as well as the Short
7 Trial Program. The parties decline to engage in those programs. LR 26-1(b)(8).

8 **G. Electronic Evidence:** The parties anticipate presenting evidence in electronic
9 form to jurors for jury deliberation purposes. The parties anticipate reaching stipulations
10 regarding disclosure of electronically stored information in a format that is compatible with the
11 Court's electronic display system. LR 26-1(b)(9).

12 **H. Later Appearing Parties:** A copy of this discovery plan and scheduling order
13 shall be served upon any person served after it is entered or, if additional defendants should
14 appear, within five (5) days of their first appearance. This discovery plan and scheduling order
15 shall apply to such later appearing parties, unless the parties stipulate otherwise with the Court's
16 approval or the Court otherwise orders.

17 **I. Additional Information:** None.

18 **J. Court Conference:** The parties do not request a conference with the Court
19 before the entry of this discovery plan and scheduling order.
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1 Dated: October 17, 2024

2 /s/ Peter Swanson

3 NICHOLAS J. SANTORO (NBN 532)

4 JASON D. SMITH (NBN 9691)

5 TYLER B. THOMAS (NBN 16637)

6 **SPENCER FANE**

7 300 South Fourth Street, Suite 1600

8 Las Vegas, Nevada 89101

9 Tel.: (702) 408-3400 / Fax: (702) 938-8648

10 Email: nsantoro@spencerfane.com

11 jdsmith@spencerfane.com

12 tbthomas@spencerfane.com

13 PETER SWANSON (*pro hac vice*)

14 GARY RUBMAN (*pro hac vice*)

15 SIMEON BOTWINICK (*pro hac vice*)

16 **COVINGTON & BURLING LLP**

17 One CityCenter

18 850 Tenth Street, NW

19 Washington, DC 20001

20 Tel.: (202) 662-6000

21 Email: pswanson@cov.com

22 grubman@cov.com

23 sbotwinick@cov.com

24 ZIWEI SONG (*pro hac vice*)

25 **COVINGTON & BURLING LLP**

26 Salesforce Tower

27 415 Mission Street, Suite 5400

28 San Francisco, CA 94105-2533

Tel.: (415) 591-6000

Email: ksong@cov.com

Attorneys for Plaintiffs

Dated: October 17, 2024

/s/ Neal S. Manne

PHILIP R. ERWIN, ESQ. (11563)

CAMPBELL & WILLIAMS

710 South Seventh Street, Suite A

Las Vegas, Nevada 89101

Tel: (702) 382-5222 / Fax: (702) 382-0540

Email: pre@cwlawlv.com

NEAL S. MANNE (*pro hac vice*)

JOSEPH S. GRINSTEIN (*pro hac vice*)

ROCCO MAGNI (*pro hac vice*)

SUSMAN GODFREY L.L.P

1000 Louisiana Street, Suite 5100

Houston, Texas 77002-5096

Telephone: (713) 651-9366

Fax: (713) 654-6666

nmanne@susmangodfrey.com

jgrinstein@susmangodfrey.com

rmagni@susmangodfrey.com

HAROLD K. GORDON, ESQ. (*pro hac vice*)

JONES DAY

250 Vesey Street

New York, New York 10281

Tel: (212) 326-3939 / F: (212) 755-7306

Email: hkgordon@jonesday.com

RANDALL E. KAY, ESQ. (*pro hac vice*)

JONES DAY

4655 Executive Drive, Suite 1500

San Diego, California 92121

Tel: (858) 314-1139 / F: (844) 345-3178

Email: rekay@jonesday.com

ANNA E. RAIMER, ESQ. (*pro hac vice*)

JONES DAY

717 Texas Street, Suite 3300

Houston, Texas 77002

Tel: (832) 239-3786 / F: (832) 239-3600

Email: aeraimer@jonesday.com

Attorneys for Defendants

IT IS SO ORDERED:

UNITED STATES MAGISTRATE JUDGE

Dated: _____

CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2024, I caused a true and correct copy of the foregoing to be served via the United States District Court CM/ECF system on all parties or persons requiring notice.

/s/ Peter Swanson